

August 28, 2003  
Amended September 2, 2003

David Martinez  
TWCC Medical Dispute Resolution  
MS-48  
7551 Metro Center Drive, Suite 100  
Austin, TX 78744-1609

MDR Tracking #: M2-03-1637-01-SS  
IRO #: 5251

\_\_\_ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to \_\_\_ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor with a specialty and board certification in Orthopedic Surgery. The \_\_\_ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to \_\_\_ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### CLINICAL HISTORY

\_\_\_ is a 61-year-old man who fell into a 15-foot hole while he was working in \_\_\_. This resulted in injury to his back. He has had two previous back surgical procedures done in 1992 and 1994 on the L4/5 and L5/S1 joints. They were apparently surgical decompressions of these joints with discectomy. He improved after surgery, but has never returned to work since the injury occurred. He then developed acute recurrent low back pain with bilateral sciatic radiation after no particular re-injury in \_\_\_. He was treated conservatively with medication and physical therapy along with a series of three epidural steroid injections. The pain became worse and began radiating down both legs, worse on the left side. An MRI was done that demonstrated evidence of joint narrowing at the L4/5 and L5/S1 levels with a very large disc herniation centrally located with severe spinal stenosis at the L3/4 level.

\_\_\_ was then referred to \_\_\_, a neurosurgeon, who has suggested spinal fusion of the lower three levels to stabilize his spine along with laminectomy and decompression at the L3/4 level where the large disc herniation is present.

The carrier has taken the position that the L3/4 decompression and fusion at this solitary level is indicated, and that a one-level fusion is adequate, but that the other two joints at L4/5 and L5/S1 do not require fusion.

### REQUESTED SERVICE

Three days hospitalization for L3/S1 lumbar laminectomy with decompression , posterolateral fusion, MS pedical screws, posterior lateral interbody fusion L3/4, cages at L3/4, and a bone morphogenetic protein kit are requested for this patient.

### DECISION

The reviewer disagrees with the prior adverse determination.

### BASIS FOR THE DECISION

This patient has had previous laminectomy and disc removal at both the L4/5 and L5/S1 joints. He has had two previous back operations and now is facing a mandatory third operation because of the large disc herniation at L3/4. X-rays reveal a significant amount of facet arthritis with joint narrowing and degenerative changes at the L4/5 and L5/S1 joints that are just below the large disc herniation and spinal stenosis.

Performing an isolated fusion at the L3/4 level without stabilizing the joints below the fusion would significantly result in this man having much more back pain than if these two joints, which have both had surgical treatments twice in the past, are left unstabilized.

His result is likely to be much better if the two joints below the L3/4 joints are stabilized. The reviewer agrees with \_\_\_\_\_. Also, the three-day hospital stay for the L3 to L1 lumbar decompression and fusion should be approved.

\_\_\_\_\_ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. \_\_\_\_\_ has made no determinations regarding benefits available under the injured employee's policy.

As an officer of \_\_\_\_\_, I certify that there is no known conflict between the reviewer, \_\_\_\_\_ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

\_\_\_\_\_ is forwarding by mail and, in the case of time sensitive matters by facsimile, a copy of this finding to the treating doctor, payor and/or URA, patient and the TWCC.

Sincerely,

### **YOUR RIGHT TO REQUEST A HEARING**

Either party to medical dispute may disagree with all or part of the decision and has a right to request a hearing.

**If disputing a spinal surgery prospective decision,** a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **10** (ten) calendar days of your receipt of this decision (28 Tex. Admin. Code 142.5(c)).

**If disputing other prospective medical necessity (preauthorization) decisions,** a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) calendar days of your receipt of this decision (28 Tex. Admin. Code 142.5(c)).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings / Appeals Clerk  
P.O. Box 17787  
Austin, Texas 78744  
Fax: 512-804-4011

The party appealing this decision shall deliver a copy of its written request for a hearing to other party involved in this dispute.

**I hereby certify, in accordance with TWCC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the carrier, requestor, claimant (and/or the claimant's representative) and the TWCC via facsimile, U.S. Postal Service or both on this 2<sup>nd</sup> day of September 2003.**